

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

IN RE:

TRIUMPH CHRISTIAN CENTER, INC.

Debtor

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**CASE NO. 10-41239
(Chapter 11)**

**FOUNDATION CAPITAL RESOURCES REJECTION OF PLAN AND
OBJECTION TO CONFIRMATION**

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

Foundation Capital Resources, Inc. ("FCR") files this its rejection of Debtor's First Amended Chapter 11 Plan dated July 15, 2011, (the "Plan") and Objection to Confirmation of the Plan and as grounds would show the Court as follows:

Objection Deadline

1. The deadline to file objections to the Plan is August 16, 2011, and this Objection has been filed timely.

FCR's Allowed Secured Claim

2. On December 7, 2010, Debtor filed a Petition for Relief under Chapter 11 of the Bankruptcy Code, thereby initiating the captioned bankruptcy case.

3. FCR is a secured creditor of the Debtor in the amount of \$2,709,798.10 (the "Indebtedness") as of the date of the Debtor's filing as reflected in FCR's proof of claim on file in this case, by virtue of a loan FCR made to the Debtor evidenced by an Adjustable Rate Secured Note dated December 10, 2008, in the original principal amount of \$2,433,500.00 (the "Note"). In addition, interest, costs, and attorney's fees continue to accrue.

4. To secure the Indebtedness under the Note, the Debtor executed a Deed of Trust, Assignment of Leases and Rents and Security Agreement dated December 10, 2008, which was recorded in the official public records of Fort Bend County, Texas under Fort Bend County Clerk's file number 2008127989, (the "Deed of Trust") in which the Debtor granted FCR a lien on the following real property and improvements (the "Collateral"):

- (a) Being a tract or parcel of land containing 23.00 acres, situated in the Joseph Kuykendall League, Abstract No. 49, Fort Bend County, Texas, and being part of that certain 5.000 acre Reserve "A", in the Tom R. Booth Estate Division No. 1 Subdivision, as recorded in Slide 1206/A of the Plat Records of Fort Bend County, conveyed to MB Golf Academy Investors, L.P., in Fort Bend County Clerk's File No. 9814052, and part of that certain 63,796 acres out of the 83.796 acre Reserve "B" of said Tom R. Booth Estate Division No. 1, conveyed to MB Golf Academy Investors, L.P., in Fort Bend County Clerk's File No. 9814656, said 23.00 acre tract being more particularly described by metes and bounds on **Exhibit "A"** attached to the Deed of Trust;
- (b) all minerals, oil, gas and other hydrocarbon substances on or under the surface of the Property, as well as all development rights, permits, licenses, air rights, water, water rights, and water stock relating to the Property; and
- (c) All structures, buildings, improvements, appurtenances and fixtures of any kind on the Property, all apparatus, equipment and appliances used in connection with the operation or occupancy of the Property, such as heating and air-conditioning systems and facilities used to provide any utility services, refrigeration, ventilation, laundry, drying, dishwashing, garbage disposal, recreation or other services on the Property, and all window coverings, drapes and rods, carpeting and floor coverings.

Debtor's Treatment of FCR's Class 1 Claim

5. FCR is the holder of the Class 1 Claim under the Plan. The Debtor has provided for FCR's claim in an unspecified amount. FCR objects to confirmation of the Plan for its failure to allow FCR's full claim as set forth in its Proof of Claim on file in this case. FCR is an over secured creditor and is entitled to full payment of its claim, including accruing interest and other charges

permitted by the loan documents evidencing the Debtor's obligations to FCR. The balance owing to FCR with the accrual of interest at the Note rate of interest through August 1, 2011, is \$2,835,758.17 with interest continuing to accrue at \$666.12 per day thereafter.

6. The Debtor proposes to pay FCR under the Plan according to the terms of an amended note the specific terms of which have not been set forth in the Plan. FCR has proposed terms to the Debtor for a modification of the Note (the "Modification") providing for repayment on terms similar to, and consistent with, the incomplete terms suggested in the Debtor's Plan, but those terms have not been accepted by the Debtor. While FCR anticipates the Debtor will accept the Modification, it was necessary to file this objection to protect its rights in this proceeding.

No Provision for Post-petition Interest and Attorney Fees

7. The value of FCR's Collateral is at least \$3,800,000.00 according to the Debtor's schedule of the value of the Collateral, and FCR is an over secured creditor as of the petition date. As an over secured creditor, FCR is entitled to post-petition interest and its reasonable fees, costs and charges from the petition date through the date of confirmation. To the extent the Plan does not propose to pay FCR's reasonable attorneys' fees, costs and charges postpetition, FCR objects to this treatment as FCR is entitled to recover these under 11 U.S.C. § 506(b).

Objection to Plan

8. FCR objects to the Debtor's proposed Plan because it fails to allow FCR its full secured claim, fails to provide with reasonable specificity the treatment of FCR's claim, and fails to allow FCR its post-petition fees and expenses.

THEREFORE, Foundation Capital Resources, Inc. requests that the Court sustain its objections to the Debtor's plan and deny confirmation of the Plan. Foundation Capital Resources, Inc. requests such other and further relief to which it may be justly entitled.

Respectfully submitted,

CHERNOSKY, SMITH, RESSLING & SMITH, PLLC

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Attorneys for Foundation Capital Resources, Inc.

Certificate of Service

A copy of this Objection to Confirmation was served on the persons shown on Service List below at the addresses reflected thereon on August 16, 2011, by electronic court filing or prepaid United States first class mail.

/S/ MICHAEL J. SMITH
Michael J. Smith

SERVICE LIST

DEBTORS:

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Via Electronic Notice

TWENTY (20) LARGEST UNSECURED CREDITORS SCHEDULED BY Debtors, PARTIES IN INTEREST AND THOSE REQUESTING NOTICE:

Capital One Bank
8401B Westheimer Rd.
Houston, TX 77083

Crestline Hotels, Inc.
3950 University Dr., Ste 301
Fairfax, VA 22030

Internal Revenue Service
STOP 5022 HOU
1919 Smith Street
Houston, TX 77002

Internal Revenue Service
P. O. Box 21126
Philadelphia, PA 19114

Jones & Carter, Inc.
1500 South Day St.
Brenham, TX 77833-4569

Ladelll and Gwendolyn Graham
PO Box 3026
Sugar Land, TX 77487

Capital One National Association
c/o Larry J. Buckley
Brice, Vander Linden & Wernick, P.C.
9441 LBJ Freeway, Suite 350
Dallas, Texas 75243

Fort Bend County
c/o Linebarger Goggan Blair & Sampson, LLP
P.O. Box 3064
Houston, Texas 77253-3064

City of Rosenberg
c/o Michael J. Darlow
Perdue, Brandon, Fielder, Collins & Mott, L.L.P.
1235 North Loop West, Suite 600
Houston, TX 77008

IRS
c/o Wanda M. Cohen
8701 S. Gessner, Suite 710
Houston, Texas 77074

Patsy Schultz, RTA
Ft. Bend County Tax Assessor
500 Liberty St., Suite 101
Richmond, TX 77469